

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Cause No. 4:18CR00876JAR/NCC
v.)	
)	
ASHU JOSHI,)	
)	
Defendant.)	

**DEFENDANT’S REQUEST TO CONTINUE THE EVIDENTIARY HEARING
AS TO THE DEFENDANT’S MOTION TO SUPPRESS EVIDENCE**

Comes now, Counsel for Defendant, and respectfully requests a continuance of the evidentiary hearing pertaining to Defendant’s Motion to Suppress Evidence in this matter. Defendant would request to proceed on January 15, 2020 with Defendant’s Motion to Dismiss, Motion to Suppress Statements, and Motion to Compel. In support of this motion, Counsel states as follows:

1. Defendant has been charged by Indictment with Count I, Production of Child Pornography, in violation of 18 U.S.C. § 2251(a); Count II, Transportation of a Minor Across State Lines, in violation of 18 U.S.C. § 2423(a) and 2; and Count III, Receipt of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(2).

2. On December 30, 2019, Defense Counsel requested supplemental discovery from the Government so that the defense may properly address the Government’s Response to Defendant’s Motion to Suppress Evidence filed December 9, 2019. (Doc. #149).

3. This discovery sought is relevant and material to the Defendant’s Motion to Suppress Evidence insofar as it will demonstrate that Facebook and the National Center for Missing and Exploited Children act as agents of the Government when conducting

electronic surveillance of user accounts for child exploitation material. If these entities are government actors, then the Defendant's Fourth Amendment rights have been violated by their warrantless search of Defendant's Facebook account. These issues have been more fully briefed in Defendant's Motion to Compel, or in the alternative, Motion for a Subpoena Pursuant to Federal Rule of Criminal Procedure 17(c) which has been filed.

4. The Government has denied Defendant's request for the supplemental discovery and stated that the Defendant has not proven it is material and the requested items are not in the Government's possession.

5. Defendant request the court continue the evidentiary hearing on Defendant's Motion to Suppress Evidence until the Court has heard arguments and ruled on Defendant's Motion to Compel. If Defendant's Motion to Compel is granted Defense Counsel will need time to receive and evaluate the materials for the evidentiary hearing.

6. Defendant would request to proceed on January 15, 2020 with Defendant's Motion to Dismiss, Motion to Suppress Statements, and Motion to Compel.

7. It is Counsel's understanding that a trial date has not been set for the cause.

8. This request for an extension of time is made in good faith for all the reasons listed herein and not to vex or harass the Court or the Government, but to ensure Defendant's Sixth Amendment right to effective assistance of counsel. The ends of justice will be best served by excluding these periods of delay from calculating deadlines that would otherwise apply. 18 U.S.C. §3161(h)(8).

WHEREFORE, for the foregoing reasons Counsel for Defendant requests a continuance of the evidentiary hearing with respect to Defendant's Motion to Suppress Evidence.

Respectfully submitted,

FRANK, JUENGEL & RADEFELD,
ATTORNEYS AT LAW, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on January 09, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following.

Colleen Lang
United States Attorney
111 South Tenth Street
St. Louis, Missouri, 63102.

/s/ Daniel A. Juengel
DANIEL A. JUENGEL